

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;  
Mark Acton, Vice Chairman;  
Tony Hammond; and  
Nanci E. Langley

Competitive Product Prices  
Priority Mail Express, Priority Mail &  
First-Class Package Service Contract 7 (MC2016-55)  
Negotiated Service Agreement

Docket No. CP2016-70

ORDER APPROVING SECOND AMENDMENT TO  
PRIORITY MAIL EXPRESS, PRIORITY MAIL & FIRST-CLASS PACKAGE SERVICE  
NEGOTIATED SERVICE AGREEMENT

(Issued February 7, 2017)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail Express, Priority Mail & First-Class Package Service negotiated service agreement.<sup>1</sup> For the reasons discussed below, the Commission approves the Amendment.

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<sup>1</sup> Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail Express, Priority Mail & First-Class Package Service Contract 7, with Portions Filed Under Seal, January 27, 2017 (Notice). The amendment is an attachment to the Notice (Amendment).

In Order No. 2983, the Commission approved the Priority Mail Express, Priority Mail & First-Class Package Service Contract 7 negotiated service agreement (Existing Agreement).<sup>2</sup> On January 27, 2017, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On January 30, 2017, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.<sup>3</sup>

The Postal Service intends for the Amendment to become effective on the latter of January 22, 2017, or two days after the day on which the Commission issues all necessary regulatory approval. Notice, Attachment A at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.*; Attachment B. The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. § 3633. *Id.*

## II. COMMENTS

Comments were filed by the Public Representative.<sup>4</sup> No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.*

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<sup>2</sup> See Docket Nos. MC2016-55 and CP2016-70, Order Adding Priority Mail Express, Priority Mail & First-Class Package Service Contract 7 to the Competitive Product List, January 6, 2016 (Order No. 2983). The contract was later amended. See Order No. 3175, Order Approving Amendment to Priority Mail Express, Priority Mail & First-Class Package Service Negotiated Service Agreement, March 22, 2016.

<sup>3</sup> See Docket No. CP2016-70, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, January 30, 2017.

<sup>4</sup> Notice of Withdrawal and Public Representative Comments on Request of the United States Postal Service to Amend Priority Mail Express, Priority Mail, and First-Class Package Service Contract 7 Negotiated Service Agreement, February 6, 2017 (PR Comments). Public Representative comments were initially filed on February 2, 2017. Public Representative Comments on the United States Postal Service Notice of Amendment to Priority Mail Express, Priority Mail & First-Class Package Service Contract 7, February 2, 2017. The Commission accepts the Public Representative's withdrawal of the initial comments and submission of new comments. For purposes of this decision, the Commission will consider only the PR Comments.

### III. COMMISSION ANALYSIS

The Commission has reviewed the Notice and the comments filed by the Public Representative.

*Cost considerations.* The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment replaces sections 1.B., I.F., 1.G., and II of the contract. Notice, Attachment A at 1. The Amendment implements price changes as contemplated by the contract's terms. It also extends the terms of the contract to encompass an additional service.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the amended agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). *See also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a).

The annual rate adjustment provision in section I.G. of the amended agreement should allow the amended agreement's revenues to cover costs for the duration of its term. The Commission will continue to review the cost coverage of the amended agreement in its Annual Compliance Determination to ensure that rates cover costs.

*Other considerations.* The Postal Service states that the Amendment will become effective on the latter of January 22, 2017, or two days after the date that the Commission completes its review of the Notice. Notice, Attachment A at 1. The Amendment does not change the contract's expiration date. If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

#### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission approves the Priority Mail Express, Priority Mail & First-Class Package Service Contract 7 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble  
Secretary